



May 12, 2017

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: American Cable Association Notice of Ex Parte Presentation; *Restoring Internet Freedom*, WC Docket No. 17-108

Dear Ms. Dortch:

On May 10, 2017, Ross J. Lieberman, Senior Vice President, Government Affairs, American Cable Association (“ACA”) and the undersigned, outside counsel to ACA, met with Jay Schwarz, Wireline Legal Advisor to Chairman Ajit Pai, to discuss the draft text of the Notice of Proposed Rulemaking (“NPRM”) in the above-referenced proceeding¹ that is expected to be considered at the Commission’s May 2017 Open Meeting.

At the outset, ACA reiterated its members’ commitment to maintaining a free and open Internet and expressed its support of the NPRM’s goals in returning to the “light touch” regulatory approach for Internet service providers (“ISPs”) under Title I that has allowed all participants in the Internet ecosystem to flourish for decades. As many of ACA’s smallest ISP member companies and non-profit municipal broadband providers have recently attested,² the decision in the 2015 Open Internet Order³ to reclassify broadband Internet access service (“broadband”) as a Title II telecommunications service, subjecting it to utility-style common carrier regulation, has caused them harm without providing their customers any material benefit.

¹ *Wireline Competition Bureau Opens WC Docket No. 17-108*, Public Notice, DA 17-396 (rel. Apr. 27, 2017); *Restoring Internet Freedom*, Notice of Proposed Rulemaking, WC Docket No. 17-108, FCC-CIRC 1705-05 (rel. Apr. 27, 2017) (“NPRM”).

² See Letter from Herb Longware, President, Cable Communications of Willsboro, Inc., et al. to Hon. Ajit Pai, Chairman, FCC, GN Docket No. 14-28, WC Docket No. 16-106 at 2 (filed Apr. 25, 2017) (“Letter from 22 Small ISPs”) (describing, inter alia, adverse impacts on investment and innovation from ensuring compliance with Title II obligations – outside consultants, lawyers – and the threat of ex ante rate regulation on ability to obtain financing); Letter from William Bottiggi, General Manager, BELD Broadband, et al. to Hon. Ajit Pai, Chairman, FCC, WC Docket No. 17-108 at 2 (filed May 11, 2017) (“Letter from 19 Municipal ISPs”) (describing depressed investment incentives due to regulatory uncertainty and the need to hire lawyers and consultants to minimize risks of non-compliance and hesitancy to roll out new features or services even with their advice to avoid costs of defending against potential complaint and enforcement action).

³ *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015) (“Open Internet Order”).

ACA representatives also discussed the draft NPRM. ACA expressed its gratitude for the item's care in exploring the impacts of the 2015 decision on small ISPs, who are less well-equipped to address the associated legal, technical and financial burdens as larger providers, as well as an uncertain regulatory environment.⁴ Moreover, ACA discussed the NPRM's legal analysis of the issues arising from the Commission's proposal to restore the classification of broadband as an information service⁵ and the effects of such a decision on regulatory structures created by the 2015 Open Internet Order, such as forbearance.⁶

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely,



Barbara S. Esbin
Counsel for the American Cable Association

cc (*via email*): Jay Schwarz

⁴ See, e.g., NPRM ¶¶ 47-48, 77.

⁵ NPRM, ¶¶ 26-37.

⁶ NPRM, ¶ 64.